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Request for Rehearing
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Applicant:	Christopher P. Olson et al.	Attorney Docket	16,664
Serial No.:	10/026,123	Group:	1734
Appeal No:	2005-2330	Examiner:	Michelle A. Lazor
Filed:	December 17, 2001	Date:	April 28, 2006

For: METHOD FOR MAKING A REFASTENABLE UNDERGARMENT

**REQUEST FOR REHEARING TO THE BOARD OF PATENT APPEALS AND INTERFERENCES
UNDER 37 C.F.R. §41.52(a)(1)**

ASSISTANT COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §41.52(a)(1), Appellants would like to make a Request for Rehearing of the Board of Patent Appeals and Interferences Decision on Appeal mailed on March 1, 2006 for patent application serial number 10/026,123.

Section 41.52(a)(1) states that requests for rehearing must state with particularity the points believed to have been misapprehended or overlooked by the Board. Appellants filed their Appeal Brief for this application on July 27, 2004. On pages 11-12 of the Appeal Brief, Appellants argue that the Examiner failed to establish a *prima facie* case for obviousness because the Examiner did not sufficiently identify motivation for why one of skill in the art would modify the method of the Schmitz patent with aspects of the Widlund patent. On page 9 of the Board's decision, the Widlund patent is mentioned for what it discloses. However, the Board does not address Appellants' argument that the Examiner did not identify the motivation for modifying the method of the Schmitz patent with aspects of the Widlund patent.

Similarly, on page 14 of the Appeal Brief, Appellants argue that the Examiner failed to establish a *prima facie* case for obviousness because the Examiner did not sufficiently identify motivation for why one of skill in the art would modify the method of the Schmitz patent with aspects of the Widlund patent and further with aspects of the Fletcher application. On page 9 of the Board's decision, the Fletcher application is mentioned for what it suggests. However, the Board does not address Appellants'

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argument that the Examiner did not identify the motivation for modifying the method of the Schmitz patent with aspects of the Widlund patent and further with aspects of the Fletcher application.

Additionally, on pages 15-16 of the Appeal Brief, Appellants argue that the Examiner failed to establish a *prima facie* case for obviousness because the Examiner did not sufficiently identify motivation for why one of skill in the art would modify the method of the Schmitz patent with aspects of the Widlund patent and further with aspects of the Roessler patent. The Examiner also failed to identify how there would be a reasonable likelihood of success in combining the Schmitz patent, the Widlund patent and the Roessler patent. The Board does not discuss the Roessler patent in its decision.

Further, on pages 16-17 of the Appeal Brief, Appellants argue that the Examiner failed to establish a *prima facie* case for obviousness because the Examiner did not sufficiently identify motivation for why one of skill in the art would modify the method of the Schmitz patent with aspects of the Widlund patent and further with aspects of the Johansson patent. On page 9 of the Board's decision, the Johansson patent is mentioned for what it suggests. However, the Board does not address Appellants' argument that the Examiner did not identify the motivation for modifying the method of the Schmitz patent with aspects of the Widlund patent and further with aspects of the Johansson patent.

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Appellants believe that the four points argued in the Appeal Brief filed July 27, 2004 and summarized above have been misapprehended or overlooked by the Board as they are not addressed in the Decision on Appeal mailed March 1, 2006. Appellants respectfully request that the Board give consideration to these points through a rehearing on this application.

The Commissioner is hereby authorized to charge any fees associated with this Request for Rehearing to Deposit Account No. 11-0875.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300 on April 28, 2006.

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